

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-970V

UNPUBLISHED

MAGDALENA FERNANDEZ,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: April 28, 2023

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Pneumococcal
Conjugate Vaccine; Shoulder Injury
Related to Vaccine Administration
(SIRVA)

John Robert Howie, Howie Law, PC, Dallas, TX, for Petitioner.

Zoe Wade, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On February 22, 2021, Magdalena Fernandez filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a Table injury – Shoulder Injury Related to Vaccine Administration (“SIRVA”) – as a result of her June 12, 2020 pneumococcal vaccination. Amended Petition, filed September 29, 2021 at 1, ¶¶ 1, 26. Petitioner further alleges that she received the vaccine within the United States, that she suffered the residual effects of his injury for more than six months, and that she has never filed a civil action or received compensation for her injury. See Amended Petition at ¶¶ 1,

¹ Because this Ruling contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

24-25. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 26, 2023, Respondent filed his Rule 4(c) Report in which he concedes that Petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, Respondent indicates that he

has concluded that [P]etitioner's alleged injury is consistent with SIRVA as defined by the Vaccine Injury Table. Specifically, [P]etitioner had no history of pain, inflammation, or dysfunction of her left shoulder; pain occurred within 48 hours after receipt of an intramuscular vaccination; pain was limited to the shoulder in which the vaccine was administered; and no other condition or abnormality has been identified to explain [P]etitioner's shoulder pain.

Id. at 4 (citing 42 C.F.R. §§ 100.3(a), (c)(10). Respondent further agrees that "[P]etitioner suffered the residual effects of his condition for more than six months." *Id.*

In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master